

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SARAH M. L'ITALIEN,

Plaintiff,

1

MICHAEL J. ASTRUE, Commissioner of
the Social Security Administration,

Defendant.

CASE NO. 11-cv-05665 RBL

REPORT AND RECOMMENDATION
ON UNOPPOSED MOTION FOR
REMAND

This matter has been referred to Magistrate Judge J. Richard Creaturea pursuant to 28

¹⁷ U.S.C. § 636(b)(1)(B) and Local Magistrates Rule MJR 4(a)(4), and as authorized by Mathews,

¹⁸ Secretary of H.E.W. v. Weber, 423 U.S. 261 (1976). This matter is before the Court on

19 || Defendant's Motion to Remand Pursuant to Sentence Six, 42 U.S.C. § 405(g) (Unopposed)

19 Defendant's Motion to Remand Pursuant to Sentence Six, 42 U.S.C. § 405(g) (Unopposed).

20 || (ECF No. 8.)

After reviewing Defendant's motion and the relevant record, the undersigned

22 recommends that the Court grant Defendant's motion, and remand this matter to the

23 Commissioner for further administrative proceedings, pursuant to sentence six of 42 U.S.C.

1 §405(g) because significant portions of the recording of the hearing are inaudible and thus good
2 cause exists to support the request for remand.

3 Following receipt of the Court's order, the Appeals Council should remand the case to an
4 administrative law judge who shall afford the Plaintiff a *de novo* hearing. This Court retains
5 jurisdiction of this action pending further administrative development of the record. See 42
6 U.S.C. § 405(g); see also *Shalala v. Schaefer*, 509 U.S. 292, 297-300 (1993). Defendant should
7 advise the Court of the outcome of the remand hearing.

8 The Commissioner of Social Security shall, after the case is remanded, modify or affirm
9 the Commissioner's findings of fact or the Commissioner's decision, or both, and shall file with
10 the Court any additional or modified findings of fact and decision, and, if the Commissioner does
11 not make a decision fully favorable to Plaintiff, a transcript of the additional record and
12 testimony on which the Commissioner's action in modifying or affirming was based. See 42
13 U.S.C. § 405(g). If the outcome of the remand hearing is not favorable to Plaintiff, Defendant will
14 move to reinstate the case so that Plaintiff need not file a new complaint in order to obtain
15 judicial review. If the outcome is favorable to Plaintiff, the parties shall move this Court for
16 entry of Judgment.

17 Given the facts and the unopposed nature of the motion, the Court recommends that the
18 District Judge immediately approve this Report and Recommendation and order the case be
19 **REMANDED** pursuant to sentence six of 42 U.S.C. § 405(g).

20 Dated this 23rd day of November, 2011.

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J. Richard Creatura
United States Magistrate Judge